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In re Application of  
Robert Victor Jones  
Application No.: 10/598,111  
PCT Application No.: PCT/AU05/00221  
Int. Filing Date: 18 February 2005  
Priority Date: 19 February 2004  
Atty Docket No.: -None-  
For: CAMERA SYSTEM

DECISION

UNDER

37 CFR 1.137 (b)

This communication is issued in response to applicants' "PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 C.F.R. 1.137(b)," filed on 26 November 2007.

### **BACKGROUND**

On 18 February 2005, applicant filed international application PCT/AU05/00221 which claimed priority to an earlier application filed 19 February 2004. The thirty-month period for paying the basic national fee in the United States expired at midnight on 19 August 2006.

On 17 August 2006, applicant filed a transmittal letter for entry into national state in the United States, which was accompanied by, *inter alia*, the requisite basic national fee.

On 04 April 2007, the Office mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) and the surcharge for late filing of the oath or declaration were required.

On 26 November 2007, applicant filed a response to the Notification of Missing Requirements including, a properly executed declaration, a petition under 37 CFR 1.37(b), petition fee (\$770), and the surcharge fee for late filing of the oath or declaration (\$65).

### **DISCUSSION**

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by (1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application; (2) the petition fee as set forth in § 1.17(m); and (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and (4) any terminal disclaimer (and fee as set forth in § 1.20 (d)) required pursuant to paragraph (c) of this section.

With respect to Item (2) Petitioner has provided the required petition fee. With respect to item (3) Petitioner has provided the proper statement under 137(b)(3). With respect to Item (4), no terminal disclaimer is required for this application.

With regards to Item (1), a review of the application file reveals that the required reply, properly executed declaration, in compliance with 37 CFE 1.497 (d), was not provided. The oath or declaration names an inventive entity different than that set forth in the International Application. Only Robert Victor Jones is indicated as an inventor in The International Application. However, the oath provided by Applicant on 11/26/07 included Gianni Caldarera as a joint inventor.

### **CONCLUSION**

For the reasons stated above, the petition to revive under 37 CFR 1.137(b) filed 11/26/07 is DISMISSED WITHOUT PREJUDICE. The application remains ABANDONED.

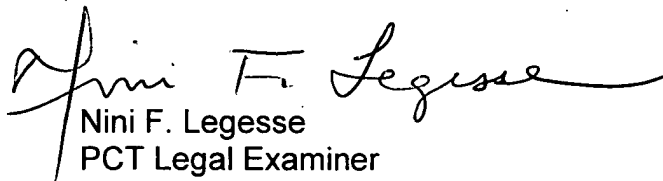
Any request for reconsideration on the merits of this decision must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.137(b)". No additional petition fee is required.

Any further correspondence with respect to this matter should be addressed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box

1450, Alexandria, VA 22313-1450, with the content of the letter marked to the attention of the PCT Legal Office.



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